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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,887	07/18/2003	Peter Taiana	2821-210WOUS-1	2741

7590 09/19/2005

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EXAMINER
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EDWARDS, LAURA ESTELLE

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/622,887		TAIANA ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Laura Edwards		1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 44, 47 and 49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44, 47 and 49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*Ku*

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 47 is rejected under 35 U.S.C. 102(b) as being anticipated by Eddy (US 4,259,372).

Eddy teaches an apparatus for coating containers comprising an apparatus (4) for coating a container with a sealant, a rotary manipulator or turret (8), at least one heating unit (119) separate and spaced from the coating apparatus, the at least one heating unit being adjacent the rotary manipulator, a first conveyor (7) for supplying containers to the rotary manipulator, the rotary manipulator rotates the containers to a position proximate the coating apparatus, and a second conveyor (5) for removing containers from the rotary manipulator. Inherently, the present apparatus can be used for the purpose of coating a damaged coated container because all that is required is a coating device, a heating unit, a rotary manipulator, and two conveyors. Applicants' intended use of the claimed invention to coat a damaged area of a coated container has been given no patentable weight.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 44 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bank et al (US 4,505,220).

Bank et al teach an apparatus for coating containers comprising an apparatus for coating a container with an edible based coating, the apparatus including a heater (15) and carrier or coating supply unit (11-14), a first lower conveyor (20) including platforms or pedestals (3), each platform being sequentially actuated into position relative to the heating or coating supply unit for treatment of the container and a second upper conveyor (20) having platforms or pedestals (3) each being sequentially actuated into position relative to another heating or coating supply unit for treatment of an opposite side of the container. While Bank et al allude to the platforms of both conveyors being positionable vertically relative to coating supply unit as evidenced by Fig. 2 and col. 7, lines 61-66, Bank et al are silent concerning the first conveyor having platforms each being selectively actuated into position relative to the heater. However, in light of the platforms already being capable of movement vertically with respect to the coating supply unit, one of ordinary skill in the art seeking to minimize costs would have found it obvious to modify the Bank et al apparatus via providing a stationary heater and moving the platform relative to the

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heater as such would require less parts in the apparatus which would in turn lower manufacturing costs. Furthermore, it is within the purview of one skilled in the art to provide a stationary heater with the container being movable relative to it as such would still effect heating and/or drying of the coated container. Applicants' intended use of the claimed invention to coat a damaged area of a coated container has been given no patentable weight.

With respect to claim 49, the Bank et al apparatus enables a limited area of a container to be coated as one conveyor limits coating to an exterior of the container and the other conveyor limits coating to an interior of the container.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patent discloses the state of the art with respect to an endless conveyor system for containers wherein each container disposed on a platform which is vertically actuated relative to a dosing device: Tuns (US 4,198,166). The following patent discloses the state of the art with respect to a container handling conveyor system including vertically displaceable platforms: Mistarz et al (US 3,708,376).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Laura Edwards  
Primary Examiner  
Art Unit 1734

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September 15, 2005